

***United States Court of Appeals  
for the  
District of Columbia Circuit***



**TRANSCRIPT OF  
RECORD**



**TRANSCRIPT OF RECORD.**

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**Court of Appeals, District of Columbia**

**OCTOBER TERM, 1908.**

**No. 1942.**

**600**

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**No. 20, SPECIAL CALENDAR.**

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**DAVID W. LEWIS, APPELLANT,**

*vs.*

**L. FLEET LUCKETT AND MARGARET ESTELLE JONES.**

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**APPEAL FROM THE SUPREME COURT OF THE DISTRICT OF COLUMBIA.**

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**FILED AUGUST 15, 1908.**

# Court of Appeals, District of Columbia

OCTOBER TERM, 1908.

No. 1942.

No. 20, SPECIAL CALENDAR.

DAVID W. LEWIS, APPELLANT,

vs.

L. FLEET LUCKETT AND MARGARET ESTELLE JONES.

APPEAL FROM THE SUPREME COURT OF THE DISTRICT OF COLUMBIA.

## INDEX.

	Original.	Print.
Petition of L. Fleet Lockett for probate of will, etc.....	1	1
Caveat of David W. Lewis.....	4	2
Answer of L. Fleet Lockett to caveat.....	6	4
Petition of Margaret E. Jones.....	9	5
Order framing issues, etc.....	12	7
Minute entries: Verdict sustaining will.....	13	7
Order of publication.....	15	8
Proof of publication.....	16	9
Motion to vacate proceedings.....	20	12
Order denying motion.....	22	13
Decree and appeal.....	23	14
Appeal bond.....	25	15
Order extending time to file transcript.....	26	16
Order extending time to file transcript.....	27	16
Order extending time to file transcript.....	28	16
Order for transcript.....	29	17
Certificate of register of wills, clerk of probate court.....	30	17

# In the Court of Appeals of the District of Columbia.

No. 1942.

DAVID W. LEWIS, Appellant,  
*vs.*  
L. FLEET LUCKETT and MARGARET ESTELLE JONES.

1 In the Supreme Court of the District of Columbia, Holding  
a Probate Court.

Probate, No. 14193.

*In re* Estate of MARY H. LEWIS, Deceased.

Your petitioner L. Fleet Lockett respectfully represents:

1st. That he is a citizen of the United States, and a resident of the District of Columbia, and files this petition for the purposes herein set forth.

2nd. That on or about January 8th 1907, Mary Hoskins Lewis departed this life in the District of Columbia, at premises No. 3318 Sherman Avenue N. W., and that she left no heirs at law or next of kin so far as petitioner knows, with the exception of David W. Lewis, husband of the said decedent, who resides in the District of Columbia.

3rd. That the only personal property left by said decedent, consisted of certain household goods valued at Twen-y-five (\$25.09) dollars, cash, One hundred and fifty-five (\$155.00) dollars, one gold watch, three gold rings and some gold studs. That the said decedent died seized and possessed of the following real estate located in the District of Columbia, premises No. 3318 Sherman Avenue N. W. and the N. E. Corner of Sherman Ave. and Morton Street N. W., said real estate being valued at about Ten Thousand (\$10000.00) dollars.

4th. That the only debt left by the decedent is the sum of one hundred and fifty (\$150.00) dollars due for funeral expenses.

5th. That said decedent left a last will and testament dated 2d day of April A. D. 1906, which is herewith presented for  
2 probate and record, and in which your petitioner is nominated as executor.

Wherefore the premises considered your petitioner prays:

First. That a United States writ of subpoena issue against David W. Lewis, requiring him to show cause why the prayers of this petition should not be granted.

Second. That the aforesaid will and testament of Mary H. Lewis dated 2d day of April A. D. 1906 be admitted to probate and rec-

ord as a will of real and personal property as the last will and testament of Mary H. Lewis deceased.

Third. That letters testamentary issue on said estate to L. Fleet Luckett, executor therein, upon his giving bond for the faithful performance of his duties.

Fourth. That the Court grant such further and other relief as it may deem necessary.

L. FLEET LUCKETT.

Personally appeared before me, George W. Eggleston Jr. a Notary Public in and for the district aforesaid, L. Fleet Luckett, who being first duly sworn deposes and says that he has read the foregoing petition and knows the contents of the same, that the matters and facts therein stated of his knowledge are true and those stated upon information and belief, he believes to be true.

Sworn and Subscribed to before me, this 18th day of January. A. D. 1907.

[NOTARIAL SEAL.]

GEORGE W. EGLESTON, JR.,  
*Notary Public, D. C.*

JANUARY 17TH, 1907.

I, Margaret Estelle Jones sole beneficiary and residuary legatee in the last will and testament of Mary H. Lewis, deceased, dated April —, A. D. 1906, do hereby waive all notice and citation and  
3 consent to the admission of said last will and testament to probate and record, and to the granting of letters testamentary under said will to L. Fleet Luckett, the executor named therein.

MARGARET ESTELLE JONES.

(Endorsement: Petition for probate of will and letters testamentary. Filed Jan. 21, 1907. James Tanner, Register of Wills, D. C., Clerk of Probate Court.)

4 In the Supreme Court of the District of Columbia, Holding Probate Court.

No. 14193.

*In re Estate of MARY H. LEWIS, Deceased.*

The petition of David W. Lewis respectfully represents:

(1) That he is informed that a certain paper writing, bearing date April 2nd, 1906, has been filed in your honorable Court as the last will and testament of Mary Hoskins Lewis, late of the District of Columbia, deceased.

(2) That the petitioner is a resident of the District of Columbia and a citizen of the United States, and as the husband of deceased files this petition.

(3) That the paper writing bearing date the 2nd day of April, 1906, and offered for probate and record as the last will and testament of the said Mary Hoskins Lewis, is not in fact the last will and

testament of the said Mary Hoskins Lewis; that the said paper writing was not executed by the said Mary Hoskins Lewis as and for her last will and testament, as required by law.

(4) That the execution of the said paper writing, if same ever was executed by the said Mary Hoskins Lewis, was procured by the undue influence or fraud of L. Fleet Lockett and Margaret Estelle Jones, the persons named as executor and beneficiary in said paper writing, respectively, or of some other person or persons at this time unknown to the petitioner; and that at the time said paper writing was executed, if the same was ever executed, the said Mary Hoskins Lewis was mentally and physically incompetent to execute a valid will.

5 (5) The petitioner herein files this caveat to the probate of said paper writing dated the 2nd day of April, 1906, as such last will and testament of the said Mary Hoskins Lewis, and he prays that the issues may be framed and tried before a jury according to law, to determine whether the said paper writing is indeed the last will and testament of the said Mary Hoskins Lewis, and whether the same was executed by her as and for her last will and testament as required by law, and, if the same was executed by her, whether or not it was executed under the undue influence or fraud of the said L. Fleet Lockett or Margaret Estelle Jones, or any other person or persons, or whether at the time of the execution of the said paper writing, if the same was ever executed by her, the said Mary Hoskins Lewis was capable of making and executing a valid will.

(6) And further, for the best interest of said estate, during the litigation incident to the trial of the issues prayed for, a proper person or persons be appointed by the Court to take charge of the estate and care for the same.

DAVID W. LEWIS.

DISTRICT OF COLUMBIA; ss:

David W. Lewis, being first duly sworn, deposes and says that he is the petitioner named in the foregoing petition by him subscribed, and knows the contents thereof; that the matters and things therein stated of his own knowledge are true, and those stated upon information and belief he believes to be true.

DAVID W. LEWIS.

Subscribed and sworn to before me this 4th day of January, A. D. 1907.

[NOTARIAL SEAL.]

F. EDWARD MITCHELL,  
*Notary Public in and for the D. of C.*

ROBT. E. MATTINGLY,  
*Attorney for Petitioner.*

(Endorsement: Caveat. Filed Feb. 4, 1907. James Tanner, Register of Wills, D. C., Clerk of Probate Court.)

6 In the Supreme Court of the District of Columbia, Holding a Probate Court.

No. 14193, Adm. Doc. 36.

*In re* Estate of MARY HOSKINS LEWIS, Deceased.

L. Fleet Lockett, as Executor, answering the petition and caveat of David W. Lewis, states as follows:

1. It is true that a certain paper writing dated April 2, 1906, purporting to be the last will and testament of Mary Hoskins Lewis, late of the District of Columbia, deceased, and wherein L. Fleet Lockett is named as Executor thereof, has been by him, in this Court, filed and propounded for probate as and for her last will and testament.

2. He admits, for the purposes of these proceedings only, that the said David W. Lewis is a resident of the District of Columbia and a citizen of the United States and was the husband of said decedent at the time of her death although then separated from her by a decree of divorce from bed and board.

3. He denies all and singular the statements contained in the paragraph numbered three (3) of said petition and he avers that the said paper writing is in fact the last will and testament of the said decedent and was by her executed as such, as required by law.

4. He denies all and singular the statements contained in the paragraph numbered four (4) of said petition and he avers that the said decedent was, at the time when she executed the said paper writing, mentally and physically competent to execute a valid will and that she then did voluntarily and without undue or any influence or fraud on the part of the said L. Fleet Lockett or Margaret Estelle Jones or any other person, execute said paper writing as and  
7 for her last will and testament:

5. He is a practising physician and as such professionally attended the said decedent before and until her death and has personal knowledge of the fact that she was then of sound and disposing mind memory and understanding and competent to make a valid deed or contract. He was named as Executor in said paper writing against his own inclination and desire and without solicitation on his part. He has offered and offers said paper writing for probate and record as her last will and testament because he conceives it to be his duty so to do, and he desires the issues raised by said caveat to be determined at an early date.

6. He believes and so avers that the interests of those concerned in the estate of said decedent require the appointment, by this Court, of some proper person or persons to take charge of said estate including also the real estate and rents due and to become due pending the litigation instituted by the filing of said caveat. He asks that such appointment be made and that he be authorized to employ at the expense of said estate some member of the bar of this court as



his attorney to conduct said litigation on his part and that this answer be considered also as his petition for such relief.

L. FLEET LUCKETT.

JAMES A. TOOMEY &  
LORENZO A. BAILEY,  
*Att'ys for said L. Fleet Lockett.*

DISTRICT OF COLUMBIA, ss:

I, L. Fleet Lockett, do solemnly swear that I have read the foregoing answer by me subscribed and know the contents thereof; that the facts therein stated upon personal knowledge are true and those therein stated upon information and belief I believe to be true.

L. FLEET LUCKETT.

8 Subscribed and sworn to before me this 15th day of July, 1907.

[NOTARIAL SEAL.]

FRANK B. TIPTON,  
*Notary Public, D. C.*

(Endorsement: Answer of L. Fleet Lockett to caveat, &c. Filed Jul- 27 1907 James Tanner, Register of Wills, D. C., Clerk of Probate Court.)

9 In the Supreme Court of the District of Columbia, Holding a Probate Court.

No. 14193, Adm. Doc. 36.

*In re* Estate of MARY HOSKINS LEWIS, Deceased.

The petitioner, Margaret Estelle Jones, states as follows:

1. This petitioner is a citizen of the United States and a resident of the District of Columbia and files this petition in her own right.

2. This petitioner knows the contents of the petition of L. Fleet Lockett herein filed January 21, 1907, and believes and so avers that the statements therein contained are true and she adopts the same as part of this petition.

3. This petitioner is informed and believes that Mary Hoskins Lewis, named in said petition of L. Fleet Lockett, was during her lifetime, the wife of Isaiah Hoskins who departed this life on or about the 27th day of May 1890; that thereafter she married David W. Lewis on or about the 30th day of September, 1896, and that the said Lewis obtained a decree of divorce from bed and board with her on the 23d day of February, 1906; that the said Mary Hoskins Lewis departed this life on or about the 8th day of January, 1907, without issue. This petitioner has made due search and inquiry to learn who are the heirs at law and next of kin of the said Mary Hoskins Lewis and of the said — Hoskins and has been and is unable to learn who are such heirs at law and next of kin or whether any such exist, and upon information and belief she avers that none such exist.

4. This petitioner is named as the beneficiary and residuary  
10 devisee and legatee of the said Mary Hoskins Lewis in the  
paper writing dated April 2, 1906, purporting to be her last  
will and testament and, as such propounded herein by the said L.  
Fleet Lockett for probate and record.

5. This petitioner has read the answer of the said L. Fleet Lockett,  
which has been prepared and sworn to by him and about to be filed  
herein, to the caveat of the said David W. Lewis herein filed. She  
believes and so avers that the statements contained in said answer are  
true and she adopts the same as part of this petition and as her an-  
swer to said caveat.

Wherefore this petitioner prays that the said paper writing dated  
April 2, 1906, be admitted to probate and record as and for the last  
will and testament of the said Mary Hoskins Lewis, as a will of  
real estate and personal estate and that this petition be taken and  
considered as this petitioner's appearance in support of the said pe-  
tition of said Lockett now pending herein for such admission to  
probate and record; that the said answer of L. Fleet Lockett to said  
caveat be taken and considered as this petitioner's answer also to  
said caveat. That some suitable person or persons be appointed to  
take charge of the real and personal estate of said decedent pending  
the litigation instituted by the filing of said caveat and to manage  
said estate under the direction of this court including also the col-  
lection of rents due and to become due, that due notice by publica-  
tion or otherwise as required by law be given to the unknown heirs  
at law of the said Mary Hoskins Lewis and of said — Hoskins of  
the pendency of these proceedings.

MARGARET ESTELLE JONES.

LORENZO A. BAILEY,  
*Solicitors for Petitioner.*

DISTRICT OF COLUMBIA, ss:

I, Margaret Estelle Jones, do solemnly swear that I have read the  
foregoing petition by me subscribed and know the contents  
11 thereof; that the facts therein stated upon personal knowl-  
edge are true and those therein stated upon information and  
belief I believe to be true.

MARGARET ESTELLE JONES.

Subscribed and sworn to before me this 17 day of July, A. D.  
1907.

[NOTARIAL SEAL.]

J. WM. REILY,  
*Notary Public, D. C.*

(Endorsement: Petition of Margaret Estelle Jones & answer to  
caveat. Filed Jul-27 1907. James Tanner, Register of Wills, D. C.,  
Clerk of Probate Court.)

12 In the Supreme Court of the District of Columbia, Holding a Probate Court.

No. 14193, Adm. Doc. —.

*In re* Estate of MARY HOSKINS LEWIS, Deceased.

Upon consideration of the caveat of David W. Lewis to the probate and record of the paper writing dated April 2, 1906, propounded by L. Fleet Lockett, as Executor, as and for the last will and testament of Mary Hoskins Lewis, deceased, and of the answer of the said L. Fleet Lockett to said caveat and of the petition of Margaret Estelle Jones which is considered also as her answer to said caveat, it is by the Court, this 31st day of July, A. D. 1907, Ordered that the following issues be tried by jury in this court, that is to say:

1. Was the said paper writing duly executed in due form of law by the said Mary Hoskins Lewis as and for her last will and testament?

2. Was the said paper writing procured from the said Mary Hoskins Lewis by undue influence?

3. Was the said paper writing procured from the said Mary Hoskins Lewis by fraud?

4. Was the said Mary Hoskins Lewis, at the time of the execution of the said paper writing, of sound and disposing mind and capable of executing a valid deed or contract?

And it is further ordered that the 4th day of November A. D. 1907, be and is hereby fixed as the date of the trial of said issues:

THOS. H. ANDERSON, *Justice*.

(Endorsement: Order framing issues & setting date for trial. Filed Jul- 31, 1907 James Tanner, Register of Wills, D. C., Clerk of Probate Court.)

13 MONDAY, *February* 3, 1908.

Mr. Justice Barnard presiding.

No. 14193, Adm. Doc. 36.

*In re* Estate of MARY H. LEWIS, Deceased.

MARGARET ESTELLE JONES and L. FLEET LUCKETT (Caveatees),  
Plaintiffs,

*vs.*

DAVID W. LEWIS (Caveator), Defendant.

Now come here again the parties aforesaid, in manner aforesaid, and the same jury that was respited on Thursday last; whereupon, the jury, after the case is given them in charge, upon their oath say:

In answer to the first issue:

Was the said paper writing duly executed in due form of law by the said Mary Hoskins Lewis as and for her last will and testament?

They answer "Yes."

In answer to the second issue:

Was the said paper writing procured from the said Mary Hoskins Lewis by undue influence?

They answer "No."

In answer to the third issue:

14 Was the said paper writing procured from the said Mary Hoskins Lewis by fraud?

They answer "No."

In answer to the fourth issue:

Was the said Mary Hoskins Lewis at the time of the execution of the said paper writing of sound and disposing mind and capable of executing a valid deed or contract?

They answer "Yes."

*Docket Entries.*

1908, Feb. 3.—Verdict sustaining will.

Teste:

J. R. YOUNG, *Clerk*,  
By E. J. McKEE, *Ass't Clerk*.

(Endorsement: 5th Minute Entry. Verdict sustaining will. Filed Feb. 3, 1908. James Tanner, Register of Wills, D. C., Clerk of Probate Court.)

15

Form No. 24.

Supreme Court of the District of Columbia, Holding Probate Court.

No. 14193, Administration Docket 36.

Estate of MARY HOSKINS LEWIS, Deceased.

Application having been made herein for probate of the last will and testament of said deceased, and for letters testamentary on said estate, by L. Fleet Luckett it is ordered this 24th day of February, A. D. 1908, that the unknown next of kin and the unknown heirs at law of the said Mary Hoskins Lewis, deceased and of Isaiah W. Hoskins, deceased and all others concerned, appear in said Court on Friday, the third day of April, A. D. 1908, at 10 o'clock A. M., to show cause why such application should not be granted. Let notice hereof be published in the "Washington Law Reporter" and the Washington Post once in each of three successive weeks before the return day herein mentioned—the first publication to be not less than thirty days before said return day.

ASHLEY M. GOULD, *Justice*.

Attest:

\_\_\_\_\_  
*Register of Wills for the District of  
Columbia, Clerk of the Probate Court.*

JAMES A. TOOMEY,  
LORENZO A. BAILEY,  
*Attorneys.*

NOTE.—A copy of above publication must be mailed to the last known post office address of each non-resident party therein named, and proof must be made of such mailing at least twenty days before decree, as provided in Sec. 108 of the Code of Law for the District of Columbia.

(Endorsement: Order of Publication, Probate of Will, dated Feb. 24, 1908, Return day Apr. 3, 1908. Papers W. L. R. and Post. Filed Feb. 24, 1908, James Tanner, Register of Wills., D. C., Clerk of Probate Court.)

16 In the Supreme Court, District of Columbia, This 10th Day of March, 1908.

No. 14193, Adm.

Estate MARY H. LEWIS.

*Affidavit.*

DISTRICT OF COLUMBIA, *To wit:*

Personally appeared before me, a Notary Public in and for the said District, Arthur D. Marks, well known to me to be Business Manager of The Washington Post, a daily newspaper printed and published in the City of Washington and the District aforesaid, and made oath in due form of law that the annexed notice was published in said daily newspaper at the times mentioned in the Certificate opposite hereto.

Witness my hand and official seal, this 10th day of March, 1908.

[NOTARIAL SEAL.]

CHARLES S. FLETCHER,  
*Notary Public, D. C.*

Supreme Court of the District of Columbia, Holding Probate Court.

No. 14193, Administration Docket —.

Estate of MARY HOSKINS LEWIS. Deceased.

Application having been made herein for probate of the last will and testament of said deceased, and for letters testamentary on said estate, by L. Fleet Lockett, it is ordered this 24th day of February, A. D. 1908, that the unknown next of kin and the unknown heirs at law of the said Mary Hoskins Lewis, deceased, and of Isaiah W. Hoskins, deceased, and all others concerned, appear in said Court on Friday, the 3rd day of April, A. D. 1908, at 10 o'clock, A. M., to show cause why such application should not be granted. Let notice hereof be published in the Washington Law Reporter and The

17 Washington Post once in each of three successive weeks before the return day herein mentioned, the first publication to be not less than thirty days before said return day.

ASHLEY M. GOULD, *Justice.*

Attest:

[SEAL.] JAMES TANNER,  
*Register of Wills for the District  
of Columbia, Clerk of the Probate Court.*

JAMES A. TOOMEY,  
LORENZO A. BAILEY,  
*Attorneys.*

I Hereby Certify, that the foregoing Legal Notice was printed and published in The Washington Post, a daily newspaper, upon the following dates:

Feby. 25, March 3", 10", 1908.

ARTHUR D. MARKS,  
*Business Manager.*

Cost of proof of publication not paid unless annexed receipt is signed and stamped by cashier of The Washington Post Company.

WASHINGTON, D. C., *March 10, 1908.*

Mr. Jas. A. Toomey & L. A. Bailey, Att'ys, to The Washington Post Company, Dr.

For publishing the annexed Legal Notice in The Washington Post..... \$7.20

Received payment for the Company — —, 190—.

(Endorsement: Proof of Publication in The Washington Post.  
Cost of Publication \$7.20 Filed Apr. 9, 1908 James Tanner, Register of Wills, D. C., Clerk of Probate Court.)

18 In the Supreme Court, District of Columbia, This 20 Day of March, 1908.

Probate Court, No. 14193, Docket No. —.

Estate of MARY HOSKINS LEWIS.

*Affidavit.*

DISTRICT OF COLUMBIA, *To wit:*

Personally appeared before me, a Notary Public in and for the said District, M. W. Moore, well known to me to be the Manager of "The Washington Law Reporter," a weekly newspaper printed and published in the City of Washington and District aforesaid, and

made oath in due form of law that the annexed notice was published in said weekly newspaper at the times mentioned in the Certificate opposite hereto.

Witness my hand and official seal this 20 day of March 1908.

[NOTARIAL SEAL.]

ALFRED D. SMITH,  
*Notary Public, D. C.*

*Copy of Notice.*

James A. Toomey and Lorenzo A. Bailey, Attorneys.

Supreme Court of the District of Columbia, Holding Probate Court.

Estate of MARY HOSKINS LEWIS, Deceased.

No. 14193, Administration Docket —.

Application having been made herein for probate of the last will and testament of said deceased, and for letters testamentary on said estate by L. Fleet Lockett, it is ordered this 24th day of February, A. D. 1908 that the unknown next of kin and the unknown heirs at law of the said Mary Hoskins Lewis, deceased, and of Isaiah 19 W. Hoskins, deceased, and all others concerned, appear in said court on Friday, the 3d day of April, A. D. 1908, at 10 o'clock A. M., to show cause why such application should not be granted. Let notice hereof be published in The Washington Law Reporter and The Washington Post once in each of three successive weeks before the return day herein mentioned, the first publication to be not less than thirty days before said return day.

[SEAL.]

ASHLEY M. GOULD, *Justice.*

Attest:

JAMES TANNER,

*Register of Wills for the District of  
Columbia, Clerk of the Probate Court.*

9-3t

I Hereby Certify that the foregoing Legal Notice was printed and published in the regular issues of "The Washington Law Reporter," a weekly newspaper, bearing date Feb. 28-March 6-13-1908.

M. W. MOORE,  
*Gen. Manager of The Law Reporter Co.  
of Washington City.*

No. 14193, Doc. —.

Estate of LEWIS.

WASHINGTON, D. C., *March* 20, 1908.M- J. A. Toomey & L. A. Bailey to The Law Reporter Printing  
Company, Dr.

OFFICE OF PUBLICATION, 518 FIFTH STREET, N. W.

For Publishing the annexed Legal Notice in "The Washing-  
ton Law Reporter," ..... \$7.92

Received payment for the Company — —, 190—.

\_\_\_\_\_,  
General Manager,  
Per — — —.Endorsement: Proof of Publication Cost of Publication, \$7.92  
Filed Apr. 10 1908 James Tanner, Register of Wills, D. C., Clerk  
of Probate Court.20 In the Supreme Court of the District of Columbia, Holding  
Probate Court.

Probate, No. 14193.

*In re* the Estate of MARY HOSKINS LEWIS, Deceased.

Now comes David W. Lewis, husband of decedent, Mary Hoskins Lewis, by and through his attorneys, Gittings & Chamberlin and Robert E. Mattingly, Esq., and moves the court to vacate and set aside the order passed in this cause on the 31st day of July, 1907, framing issues to be tried by a jury, and to vacate and set aside any and all subsequent proceedings had pursuant to said order, including the verdict of the jury, and as ground therefore, states: That it is apparent on the face of the record in this cause that the court was without jurisdiction at the time of the passage of the order of the 31st day of July, 1907, to frame issues and fix the date of trial because the conditions precedent of Sections 130 to 140, inclusive, of the Code of Laws of the District of Columbia, had not been complied with, in this; viz:

There was no publication against the unknown heirs of decedent prior to framing of issues; and there was no publication of issues and date set for trial prior to trial as required by said sections of the Code, notwithstanding;

(a) The petition of L. Fleet Luckett filed in this cause January 21, 1907, for probate of the alleged will of deceased, recites

"She left no heirs at law or next of kin so far as the petitioner knows with the exception of David W. Lewis, husband of the decedent."



and (b) That the petition and answer of Margaret Estelle Jones filed in this cause July 27, 1907, prays

"That due notice by publication or otherwise as required by law be given to the unknown heirs at law of the said Mary Hoskins Lewis and of the said — Hoskins of the pendency of these proceedings."

GITTINGS & CHAMBERLIN,  
ROBT. E. MATTINGLY,  
*Attorneys for Caveator.*

Messrs. Lorenzo A. Bailey and James A. Toomey, Attorneys for Caveatees:

Please take notice that we shall call the above motion to the attention of Mr. Justice Gould holding the Probate court on Friday, the 20th day of March, 1908, or as soon thereafter as counsel may be heard.

GITTINGS & CHAMBERLIN,  
ROBT. E. MATTINGLY,  
*Attorneys for Caveator.*

(Endorsement: Motion to vacate proceedings. Filed Mar. 17 1908. James Tanner, Register of Wills, D. C., Clerk of Probate Court.)

22 In the Supreme Court of the District of Columbia, Holding a Probate Court.

No. 14193, Adm.

*In re* Estate of MARY HOSKINS LEWIS, Deceased.

*argument* Upon consideration of the motion of Davis W. Lewis herein filed on the 17th day of March, 1908, to vacate the order of July 31, 1907, framing issues to be tried by jury and to vacate the verdict and any — all proceedings subsequent and pursuant to said order, and upon ~~agreement~~ of counsel, it is by the Court this 8th day of April, 1908, Adjudged and Ordered that the said motion be and is hereby denied.

ASHLEY M. GOULD, *Justice.*

To the overruling of said motions the said David W. Lewis then and there duly excepted which exceptions is hereby noted and granted.

ASHLEY M. GOULD, *Justice.*

(Endorsement: Order denying motion to vacate proceedings. Filed Apr. 8 1908. James Tanner, Register of Wills, D. C., Clerk of Probate Court.)

23 In the Supreme Court of the District of Columbia, Holding Probate Court.

No. 14193, Adm. Doc. —.

*In re* Estate of MARY HOSKINS LEWIS, Deceased.

Upon consideration of the petitions of L. Fleet Luckett and Margaret Estelle Jones and the answer and caveat of David W. Lewis and the verdict of the jury impaneled to try the issues framed herein upon said caveat and the proof by the attesting witnesses of the due execution of the paper writing dated April 2, 1906, by Mary Hoskins Lewis, since deceased, as and for her last will and testament, being the same paper writing mentioned in said petitions, caveat and verdict, and upon consideration of all and singular the proceedings herein had, it is by the court, this 15th day of April, A. D. 1908, Adjudged that the said paper writing dated April 2, 1906, was duly executed by the said Mary Hoskins Lewis as and for her last will and testament, and that the execution thereof by her was not procured by undue influence or fraud and that at the time of the execution thereof the said Mary Hoskins Lewis was mentally and physically competent to execute the same as and for her last will and testament.

And upon consideration of the premises it is by the court further Adjudged, and Ordered and Decreed that the said paper writing dated April 2, 1906, be and the same is hereby admitted to probate and record as the last will and testament of the said Mary  
24 Hoskins Lewis, deceased, as to personal and real estate and that letters testamentary on said estate issue to the said L. Fleet Luckett who is named in said will as the executor thereof, upon his first giving bond, to be approved by the court, in the sum of Three hundred dollars (\$300.00) and conditioned as required by law for the faithful performance of his trust, and that the said L. Fleet Luckett and Margaret Estelle Jones, caveatees, recover of the said David W. Lewis, caveator, the taxable costs of said trial by jury and all taxable costs incurred by reason of the filing of said caveat, and to be taxed by the clerk of this court, and have execution therefor as at law.

ASHLEY M. GOULD, *Justice*.

And from the above decree, the said David W. Lewis prays an appeal to the Court of Appeals which is hereby granted, and the bond for costs on said appeal is hereby fixed at One hundred dollars.

ASHLEY M. GOULD, *Justice*.

(Endorsement: Decree admitting will to probate, etc. Filed Apr. 15, 1908. James Tanner, Register of Wills, D. C., Clerk of Probate Court.)

25

Form No. —.

Supreme Court of the District of Columbia, Holding a Probate Court.

Probate, No. 14193, Administration.

DAVID W. LEWIS

*vs.*

Estate of MARY H. LEWIS, Deceased.

Know all Men by these Presents, That we David W. Lewis, of Washington, D. C. as principal, and Jacob P. Frech, of Washington, D. C. as surety are held and firmly bound unto the above-named Estate of Mary H. Lewis, deceased in the full sum of One Hundred dollars, to be paid to the said Estate of Mary H. Lewis, deceased, executors, administrators, successors or assigns; to which payment, well and truly to be made, we bind ourselves, and each of us, jointly and severally, and our and each of our heirs, executors, administrators, successors and assigns, firmly by these presents.

Sealed with our seals, and dated this fifth day of March, in the year of our Lord one thousand nine hundred and eight.

Whereas the above-named David W. Lewis has prosecuted an appeal to the Court of Appeals of the District of Columbia, to reverse the Judgment rendered in the above suit by the said Supreme Court of the District of Columbia:

Now, Therefore, the condition of this obligation is such, That if the above-named David W. Lewis shall prosecute his said appeal to effect, and answer all costs if he shall fail to make good his plea, then this obligation shall be void; otherwise, the same shall be and remain in full force and virtue.

DAVID W. LEWIS. [SEAL.]  
JACOB P. FRECH. [SEAL.]

Sealed and delivered in presence of—

\_\_\_\_\_  
\_\_\_\_\_

This bond is satisfactory to be re-approved,  
April 16/08.

JAS. A. TOOMEY &  
L. A. BAILEY, *Att'ys.*

Approved the 16th day of April, 1908.

JOB BARNARD,  
*Justice S. C. D. C.*

(Endorsement: Bond for Appeal. Approved April 16, 1908. Filed April 16, 1908 James Tanner, Register of Wills, D. C., Clerk of Probate Court.)

26 In the Supreme Court of the District of Columbia, Holding  
Special Term of Probate Court.

Probate, No. 14193.

*In re* Estate of MARY HOSKINS LEWIS, Deceased.

On consideration of the motion on behalf of caveator that his time in which to file the transcript of record in the Court of Appeals be extended for thirty days, it is hereby, by the Court this 22nd day of May, A. D., 1908, ordered that caveator's time in which to file the transcript of record in the Court of Appeals be, and the same hereby is, extended until the 22nd day of June A. D. 1908.

ASHLEY M. GOULD, *Justice*.

(Endorsement: Order for extension of time to file transcript of record. Filed May 22, 1908. James Tanner, Register of Wills, D. C., Clerk of Probate Court.)

27 In the Supreme Court of the District of Columbia, Holding  
Special Term of Probate Court.

Probate, No. 14193.

*In re* Estate of MARY HOSKINS LEWIS, Deceased.

On consideration of the motion on behalf of caveator that his time in which to file the transcript of record in the Court of Appeals be extended for thirty days, it is hereby, by the Court this 18th day of June, A. D. 1908, ordered that caveator's time in which to file the transcript of record in the court of Appeals be, and the same hereby is extended until the 18th day of July A. D. 1908.

THOS. H. ANDERSON, *Justice*.

(Endorsement: Order extending time of caveator in which to file transcript of record in the court of Appeals. Filed Jun- 18 1908 James Tanner, Register of Wills, D. C., Clerk of Probate Court.)

28 In the Supreme Court of the District of Columbia.

Probate, No. 14193.

*In re* the Estate of MARY HOSKINS LEWIS, Deceased.

On consideration of the motion on behalf of caveator that his time in which to file the transcript of record in the court of appeals be extended for thirty days, it is hereby, by the court this 14th day of July, 1908, ordered that caveator's time in which to file the transcript of record in the court of Appeals, be, and the same hereby is extended until the 18th day of August, A. D. 1908.

WRIGHT, *Justice*.

(Endorsement: Order for extension of time in which to file transcript of record in the court of Appeals. Filed Jul- 14 1908. James Tanner, Register of Wills, D. C., Clerk of Probate Court.)

29 In the Supreme Court of the District of Columbia.

Probate, No. 14193.

*In re* the Estate of MARY HOSKINS LEWIS, Deceased.

James Tanner, Esquire, Register of Wills.

SIR: Please make up the record to the court of Appeals in the above entitled cause, including therein the following pleadings and decrees, and none other:

(1) Petition of L. Fleet Lockett for probate of the will, and citation thereon.

(2) Caveat of David W. Lewis.

(3) Answer of L. Fleet Lockett.

(4) Petition of Margaret E. Jones for probate and answer to caveat.

(5) Issues.

(6) Verdict of Jury.

(7) Order for and proof of publication for unknown heirs, devisees, etc.

(8) Motion of David W. Lewis to vacate the issues and all proceedings subsequent thereto.

(9) Order denying motion.

(10) Order admitting will to probate and appeal therefrom.

(11) Appeal bond.

(12) Orders extending time to file transcript.

JOHN C. GITTINGS,  
ROBT. E. MATTINGLY,  
*Attorneys for Caveator.*

(Endorsement: Order to clerk to make up record to Court of Appeals. Filed Aug. 4, 1908 James Tanner, Register of Wills, D. C., Clerk of Probate Court.)

30

Form No. 94.

Supreme Court of the District of Columbia, Holding a Probate Court.

DISTRICT OF COLUMBIA, ss:

I, Wm. C. Taylor, Deputy Register of Wills for the District of Columbia, Clerk of the Probate Court, Do Hereby Certify the foregoing pages, numbered from 1 to 29, inclusive, to be true copies of the originals of certain papers on file in the office of the Register of Wills, Clerk of the Probate Court, in case No. 14,193 estate of Mary Hoskins Lewis, deceased, wherein David W. Lewis is appellant, and

L. Fleet Lockett & Margaret Estelle Jones are appellees, the same constituting a full, true, and correct transcript of record of proceedings had in said cause according to the Order of counsel filed therein and made a part hereof.

I Further Certify, That the bond for appeal, in the penalty of One Hundred Dollars *dollars*, was duly filed by said appellant, and approved by said Court on the 16th day of April, A. D. 1908.

In Testimony Whereof, I hereunto subscribe my name and affix the seal of the said Probate Court, this 14th day of August, A. D. 1908.

[Seal Supreme Court of the District of Columbia.]

W. C. TAYLOR,  
*Deputy Register of Wills for the District of Columbia,*  
*Clerk of the Probate Court.*

Endorsed on cover: District of Columbia supreme court. No. 1942. David W. Lewis, appellant, *vs.* L. Fleet Lockett and Margaret Estelle Jones. Court of Appeals, District of Columbia. Filed Aug. 15, 1908. Henry W. Hodges, clerk.

